

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES RAY WILEY,

Plaintiff,

No. CIV S-04-1922 MCE KJM P

vs.

CHERYL K. PLILER, et al.,

Defendants.

ORDER

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Plaintiff is a state prison inmate proceeding with a civil rights action under 42 U.S.C. § 1983. On March 27, 2006, plaintiff filed a motion for a temporary restraining order, directing the warden and staff of California State Prison, Corcoran, to cease their retaliatory acts against him. The underlying complaint is based on the actions of Folsom Prison officials in denying plaintiff toothpaste for a period of forty-seven days.

In Devose v. Herrington, 42 F.3d 470 (8th Cir. 1994), the inmate plaintiff sought an injunction preventing the defendants from filing false disciplinary charges and taking other actions in retaliation for the underlying lawsuit, in which plaintiff challenged his medical care.

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1 The Court of Appeal observed:

2 [A] party moving for a preliminary injunction must necessarily
3 establish a relationship between the injury claimed in the party's
4 motion and the conduct asserted in the complaint. It is self-evident
5 that Devose's motion for temporary relief has nothing to do with
6 preserving the district court's decision making power. . . .

7 Although these new assertions might support additional claims
8 against the same prison officials, they cannot provide the basis for
9 a preliminary injunction in this lawsuit.

10 Id. (citations omitted); see also Omega World Travel v. Trans World Airways, 111 F.3d 14, 16
11 (4th Cir. 1997); Lebron v. Armstrong, 289 F.Supp.2d 56, 61 (D. Conn. 2003). If this showing of
12 a relationship is not made, the court should not consider the factors for the issuance of
13 preliminary relief. In re Microsoft Antitrust Litigation, 333 F.3d 517, 526 (4th Cir. 2003).

14 Plaintiff seeks an injunction preventing retaliation and harassment by his present
15 custodians, while his claims in the complaint concern past instances of mistreatment. The
16 relationship between the claims is insufficient to justify the grant of a temporary restraining
17 order, for plaintiff's request has "nothing to do with preserving the district court's decision
18 making power."

19 DATED: April 24, 2006.

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UNITED STATES MAGISTRATE JUDGE